



STATE OF DELAWARE

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October 23, 2015

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Toni Loper, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF MIDAMERICAN ENERGY SERVICES, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED JULY 15, 2015; FILED OCTOBER 21, 2015) - PSC DOCKET No. 15-1122

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**Background**

On July 15, 2015, MidAmerican Energy Services, LLC ("MidAmerican" or the "Company") submitted an application (the "Application") with the Delaware Public Service Commission ("Commission") for an Electric Supplier Certificate ("ESC") to act as a Supplier in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the "Act") and 26 *Del. Admin. C.* §3001, the Commission's Rules for Certification and Regulation of Electric Suppliers (the "Supplier Rules").<sup>1</sup>

**Application**

The Company's original filing was submitted on July 15, 2015, but the submitted Application did not meet the minimum filing requirements ("MFRs"). Staff requested the Company file additional documentation on the following: a) a copy of the Delaware business license, b) relevant operational experience of each principal officer responsible for Delaware operations, c) a copy of the approval as a FERC marketer, and d) a signed, sworn verification letter as required. Follow up documentation was received, but upon further review Staff requested that the Company file a public version of the confidentially filed financial statements, as well as an attestation.<sup>2</sup> Staff received supplemental filings from the Applicant to address all deficiencies, and the MFRs were satisfied with the filing of the business license on October 21, 2015.

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<sup>1</sup> Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

<sup>2</sup> 26 *Del. Admin. C.* § 1001- 1.11.3 of the Rules of Practice and Procedure of the Delaware Public Service Commission requires the party seeking proprietary treatment shall submit for filing one copy of the document without the confidential information, with an indication that claimed confidential information has been deleted.

## **Review and Analysis**

### **Authority to do Business in Delaware**

The Company is a limited liability company formed under the laws of Delaware and has provided proof issued by the Delaware Secretary of State that it is legally authorized and qualified to do business in the State of Delaware.

### **Resident Agent**

The Company supplied the contact information for a Delaware Registered Agent listed in the Application as Corporation Trust Company, Wilmington, DE.

### **Performance Bonds**

The Company currently does not have a performance bond, Staff recommends that if a bond is required by the Electric Distribution Company (EDC) the Company should secure the bond as required and provide the required documentation to the Commission.

### **Compliance with Regional Requirements**

The Company provided proof of PJM membership. The Company provided a copy of the FERC approval as a marketer.

## **Financial, Operational, Managerial and Technical Ability**

The Company provided confidential financial statements for MidAmerican Energy Services as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules. The Company also provided proof of a minimum of \$100,000 of assets in excess of encumbrances as required in Section 2.1.1.5.8 of the Supplier Rules in the form of liquid assets, in this case cash and cash equivalents, disclosed on the Company's balance sheet. Staff believes that the financial statements and proof of liquidity show substantial evidence of the Applicant's financial ability to provide services as an Electric Supplier in the State of Delaware.

The Company anticipates acting as a Supplier serving residential, small commercial, large commercial and industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Application states that the Company is presently licensed to sell electricity in the District of Columbia, Illinois, Maryland, Michigan, Ohio, Pennsylvania, and Texas. The Company has an application pending in Pennsylvania. Staff confirmed that the Company is licensed in those states by conducting an internet search of the Secretary of State Websites and the Public Utility Commission Websites for the states listed. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. The Company provided a toll-free customer service telephone number. Staff believes that this information shows substantial evidence of the Applicant's operational ability to provide services as a Supplier in the State of Delaware.

The Application included a summary of the key operating personnel of the Company. Mr. Jack Kelleher, President, has over 15 years' experience in the energy industry and includes several management level positions, Vice President Sales and Sales Manager, with MidAmerican Energy Company as well as other positions at an environmental services company. Mr. Kelleher's responsibilities include development of strategic and tactical plans, processes and procedures to assure the marketing and sales organization maintains strict compliance with safety, environmental, legal, regulatory and financial requirements. Mr. Vu Nguyen, Director Energy Products, has worked in the utility industry since

1996 with the majority of his career spent at MidAmerican Energy Company. His various management level positions within the company include responsibilities to maintain full compliance with rules and regulations, analyze and identify risks, analyze, develop and deliver testimony used to substantiate business-critical and consumer perspective, as well as manage the natural gas transportation portfolio. The Company also provided detailed resumes for several other key operating personnel in support of their Application. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial, and technical abilities to perform as a Supplier in the State of Delaware. Staff performed an internet review of the key operating personnel and found no outstanding issues.

#### Surety Bond

The Company did not post a surety bond since it does not require Customers to provide a deposit, prepayment, financial guarantee or the like.

#### Verification of Application

The Application and all subsequent filings were verified by Mr. Jack Kelleher, President.

#### Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

#### Contracts

The Company did provide sample residential and small commercial contracts for Staff to review as a part of the Application. Staff reviewed the contracts and believes that they are consistent with the Supplier Rules.

#### Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principals revealed no issues.

#### Public Notice

MidAmerican was advised that, pursuant to Section 2.2 of the Supplier Rules, the Company was required to publish notice of its filing in two general circulation newspapers in Delaware. The Company provided the appropriate affidavits of publication from each publication. Notice was published in the Delaware State News on August 18, 2015, and in The News Journal on August 21, 2015. There were no interventions, protests, or comments filed in the docket within the 20-day notice period.

#### Legal Review

Staff submitted this memo for review by the Attorney on October 26, 2015.

#### Staff Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff and the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability to render service based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.